

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

CHARLES ANTHONY ALLEN SR. §
v. § CIVIL ACTION NO. 9:07cv310
WARDEN REESCANO, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Charles Allen, proceeding *pro se*, filed this lawsuit complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On January 4, 2008, Allen was ordered to pay the filing fee of \$350.00 or to submit an application for leave to proceed *in forma pauperis* which was accompanied by a certified TDCJ inmate data sheet, as required by 28 U.S.C. §1915(b). Allen received a copy of this order on January 8, 2008, but did not comply, nor show good cause for his failure to do so.

On February 28, 2008, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Allen filed a response to the Report, saying that it was not his intent not to respond to the filing fee order, but that he has been moved to another unit, and that he intends to pursue the matter in another district. He did not object to the proposed findings or conclusions of the Magistrate Judge and is therefore barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

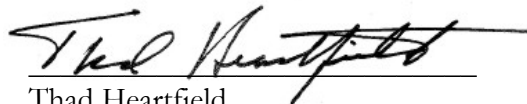
The Court has reviewed the pleadings and the Report of the Magistrate Judge in this case, as well as the Plaintiff's response thereto, and has determined that this Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this the **8** day of **April, 2008**.


Thad Heartfield
United States District Judge